

AUG 17 2006

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of: James T. Perkins	Examiner: Melissa A. McCorkle
Serial Number: 11/017,581	Atty Docket No.: P03658 (6639-000070/US)
Filed: December 20, 2004	Art Unit: 3763
For: SURGE DAMPENING IRRIGATION- ASPIRATION TUBE	

RESPONSE

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Honorable Sir:

This is a response to the Office Action mailed 19 May 2006. The claims stand rejected 35 U.S.C. § 102 as being anticipated by Kadziauskas, et al., U.S. Patent Application 2005/0080375. The Applicant strongly disagrees.

Contrary to the Examiner's assertions, the '375 application does not disclose irrigation and aspiration tubing, as claimed in the present invention. The '375 application discloses an accumulator 46 which is placed in line with and connected to an irrigation supply tube 32 and to a handpiece. In addition, accumulator 46 includes a port which may be connected to an aspiration vacuum source. It is noted that the aspiration vacuum source connected to accumulator 46 is not the claimed aspiration line which carries aspiration fluid from the surgery site; but rather is a separate aspiration source which causes accumulator 46 to expand or contract as necessary during surgery.

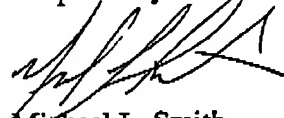
S/N: 11/017,581

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The above-described accumulator is in stark contrast to the claimed length of tubing which includes both an irrigation lumen and an aspiration lumen, wherein the lumens share a compliant common wall. The specific structure claimed in independent claims 1 and 6 is simply not shown, taught, or suggested by the '375 application. The '375 application has no common wall between the aspiration line 38 and the irrigation line 32, as specifically claimed. Rather as clearly seen in FIGs. 1 and 2, the irrigation and aspiration lines are completely separate from one another. The '375 application requires and relies on control 40 or 66 to cause the accumulator to expand or contract in order to provide more or less irrigation fluid flow into the surgical handpiece. Whereas, the present invention does not rely on such separate control. Rather, as specifically claimed, by providing a common compliant wall the increased aspiration or vacuum level in the aspiration line causes the compliant common wall to expand the irrigation lumen and therefore, conveniently provide for more flow at a higher vacuum level which acts to prevent collapse of the eye and dampen any post occlusion surge that may occur.

The cited prior art simply does not show the claimed irrigation and aspiration tubing of the present invention. Therefore, it is respectfully submitted that the application is in condition for allowance, and such allowance is requested at an early date.

Respectfully submitted,



Michael L. Smith
Reg. No. 35,685

DATE: August 17, 2006

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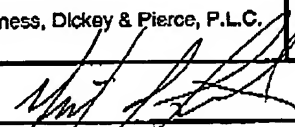
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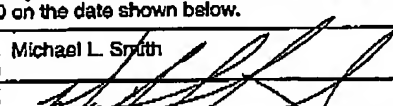
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TRANSMITTAL FORM <i>(to be used for all correspondence after initial filing)</i>	Application Number	11/017,581	
	Filing Date	December 20, 2004	
	First Named Inventor	James T. Perkins	
	Art Unit	3763	
	Examiner Name	Melissa A. McCorkle	
Total Number of Pages in This Submission	3	Attorney Docket Number	P03658 (6639-000070/US)

ENCLOSURES (check all that apply)		
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Remarks: The Commissioner is hereby authorized to charge any additional fees that may be required under 37 CFR 1.16 or 1.17 to Deposit Account No. 08-0750.		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT			
Firm or Individual name	Harness, Dickey & Pierce, P.L.C.	Attorney Name	Michael L. Smith
Signature			
Date	August 17, 2006		

CERTIFICATE OF TRANSMISSION/MAILING			
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Typed or printed name	Michael L. Smith	Express Mail Label No.	
Signature		Date	August 17, 2006

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